

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

ANTHONY GRIFFIN, MARK MCINDOO,
and SUZANNE DETOMASO, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

ALDI, INC., DOE DEFENDANTS 1-10,

Defendants.

Case No.: 16-cv-354 (LEK)(ATB)

**DECLARATION OF MICHAEL A.
TOMPKINS, ESQ. IN SUPPORT OF
PLAINTIFFS' MOTIONS FOR
FINAL APPROVAL OF
SETTLEMENT AND AWARD OF
ATTORNEYS' FEES AND
EXPENSES**

I, Michael A. Tompkins, declare as follows:

1. I am a partner of the law firm of Leeds Brown Law, P.C. ("Leeds Brown"). I submit this declaration in support of Plaintiffs' Motions for final approval of settlement and award of attorneys' fees in connection with services rendered in this case, as well as the reimbursement of expenses incurred by my firm in connection with this collective class action litigation.

2. I have personal knowledge of the matters set forth herein based upon my participation in this litigation.

3. Leeds Brown is Co-Lead counsel in this matter.

4. Leeds Brown has considerable experience litigating employment and wage and hour lawsuits, many of which have been collective and class actions. *See Cohan v. Columbia Sussex Management LLC*, 12-CV-3203(AKT) (E.D.N.Y., Sept. 28, 2018) ("The quality of representation in this litigation is evidence from the record. [Leeds Brown Law, P.C. along with co-counsel Virginia & Ambinder, LLP] are well known class action employment lawyers who have extensive experience and special expertise in prosecuting and settling FLSA and NYLL wage and hour cases. Having observed the efforts of counsel in various Court conferences as well as the [Fairness

Hearing] – in addition to the Court’s previous cases with these attorneys – and understanding that the parties engaged in four separate mediation sessions with well-respected mediators, the Court is satisfied that Class Counsel provided quality representation to the Class Members.”); *see also* Tart v. Lions Gate Entm’t Corp., 2015 U.S. Dist. LEXIS 139266 at *7 (S.D.N.Y. Oct. 13, 2015). (“Virginia & Ambinder, LLP, and Leeds Brown Law, P.C. are experienced and well-qualified employment and class action lawyers with expertise in prosecuting and settling labor law cases. The substantial work that Plaintiffs’ counsel has performed in investigating, litigating and reaching a settlement in this case demonstrates their commitment to the class and representing the class’s interests.”); Varela v. Building Services Industries, LLC, Index No. 600037/2016 (Sup. Ct. Nassau Cty. Dec. 20, 2017) (“The work that [Leeds Brown] has performed both in litigating and settling this [unpaid wage] case demonstrates their commitment to the class and to representing the class’s interest.”); Malcok v. S.E.B. Service of New York, Inc., 11-cv-5080 (MDG) (E.D.N.Y. Mar. 13, 2017) (J. Go) (granting final approval of the class settlement and commenting that the Virginia & Ambinder, LLP, as well as “Jeffrey K. Brown and Michael Tompkins of Leeds Brown Law, P.C. ... have experience litigating class and collective actions based on wage and hour claims, spent significant time and did substantial work identifying, investigating, and settling plaintiffs’ [] claims. This Court observed counsel’s performance in this action in status conferences and multiple settlement conferences and finds that their performance in both litigating and settling this case demonstrates their commitment to the classes and to representing the interests of the classes.”)

5. Numerous courts have approved wage and hour class settlements with Virginia & Ambinder, LLP and Leeds Brown Law, P.C. as class counsel. *See e.g.*, Vitetta v. Sirius XM Radio Inc., Case No. 14-2926(VEC) (S.D.N.Y. Dec. 18, 2015); Arias v. Clear Channel Broadcasting, Inc., Case No. 14-CV-5088(SN) (S.D.N.Y. Feb. 2, 2016);); O’Jeda v. Viacom, Inc., No. 13-CV-

5658 (JMF) (S.D.N.Y. Jan. 13, 2016); Grant v. Warner Music Group Corp., Case No. 13-CV-4449(PGG) (S.D.N.Y. March 11, 2016); Marcus v. AXA Advisors, LLC, 11-cv-2339 (SMG) (E.D.N.Y. May 6, 2016) (J. Gold); Maor v. IHG Management Maryland LLC, Index No. 050823/2014 (Sup. Ct. Westchester Cty., Feb. 8, 2016); Martin v. Restaurant Associates Events, 53700/2011 (Westchester Cty. Sup. Ct. Oct. 16, 2014); In re: Penthouse Executive Club Compensation Litigation, 10-CV-1145 (KMW) (S.D.N.Y. Jan. 14, 2014); Weinstein v. Jenny Craig Operations, Inc., Index No. 2011/105520 (Sup. Ct. N.Y. Cty., Oct. 24, 2013); Williams v. Air Serv Corp., Index. No. 108648/2010 (Sup. Ct. N.Y. Cty., April 19, 2013); Toledo v. DCJ Catering Corp., 600944/2011 (Nassau Cty. Sup. Ct., Dec. 21, 2012); Garcia v. Exec. Club LLC, 2012 U.S. Dist. LEXIS 189823 (S.D.N.Y. May 10, 2012) (“Plaintiffs’ Counsel have experience prosecuting and settling employment class actions, including wage and hour class actions and are well-versed in wage and hour law and in class action law.”).

6. The hourly rates Leeds Brown billed are listed in the schedule below, along with the amount of time spent by attorneys and support staff who were involved in this litigation, as well as a discounted rate being applied to this case:

ATTORNEY/STAFF	HOURS	REGULAR RATE	DISCOUNTED RATE	DISCOUNTED LODESTAR
Brown, Jeffrey K.	122.00	\$530.00	\$500.00	\$61,000.00
Leeds, Lenard	13.70	\$530.00	\$500.00	\$6,165.00
Associates				
Tompkins, Michael	94.10	\$410.00	\$350.00	\$32,935.00
Cohen, Brett	36.10	\$365.00	\$325.00	\$11,732.50
Reznick, Laura	3.90	\$350.00	\$315.00	\$1,228.50
Siegel, Jeremy	0.30	\$250.00	\$250.00	\$75.00
Paralegals & Support Staff				
Pellegrini, Maria	44.50	\$125.00	\$125.00	\$5,562.50

Eagan, Chris	1.50	\$125.00	\$125.00	\$187.50
Cangelosi, Brittany	10.00	\$125.00	\$125.00	\$1,250.00
Of Counsel				
Travis, Hannibal	17.00	\$500.00	\$450.00	\$7,650.00
TOTALS	343.10			\$130,227.79

Breakdown Attorneys v. Staff:			
	Hours	Percentages	DISCOUNTED LODESTAR
Attorneys Total =	287.10	83.68%	\$123,227.79
Staff Totals =	56.00	16.32%	\$7,000.00
TOTAL =	343.10		\$130,227.79

7. Leeds Brown's regular hourly rates for partners, other attorneys, and professional support staff are based on rates previously approved by courts in New York, including those in the context of wage and hour settlements. *See e.g., Uddin v. Interstate Management Company, LLC*, Case No. 16-CV-2149 (AJN) (S.D.N.Y. Oct. 3, 2017) (approving LBL associates, including myself, at up to \$405 as an hourly rate); *Klein v. Octagon, Inc.*, 14-cv-6770 (AT) (S.D.N.Y. Sept. 7, 2017) (J. Torres) (approving award of fees where LBL billed partners at \$530 per hour and associates at up to \$395 per hour); *Tart v. Lions Gate Entm't Corp.*, 14-cv-8004 (AJN) (S.D.N.Y. May 16, 2016) (J. Nathan) (same); *Marcus v. AXA Advisors, LLC*, 11-cv-2339 (SMG) (E.D.N.Y. May 6, 2016) (J. Gold) (approving award of fees where LBL billed partners at \$525 per hour and associates at up to \$395 per hour); *Vitetta v. Sirius XM Radio Inc.*, 14-cv-2926 (VEC) (S.D.N.Y. Feb. 17, 2016) (J. Caproni) (approving award of fees where LBL billed partners at \$525 per hour and associates at up to \$375 per hour); *Mendez v. KCD, Inc.*, Index No. 155702/2015 (Sup. Ct. N.Y. Cty. Jan. 4, 2017) (approving award of fees where LBL billed partners at \$530 per hour and associates up to \$405 per hour).

8. In the exercise of billing discretion, Leeds Brown has not included de minimis time and we have removed time that could be considered duplicative.

9. As of November 5, 2018, the total number of hours expended on this litigation by my firm is 343.10 hours. The total lodestar based on the law firm's discounted rate is \$130,227.79.

10. As detailed below, my firm has incurred a total of \$319.54 in unreimbursed expenses in connection with the prosecution of this litigation, primarily related to costs associated with the mediation in NYC amongst all counsel and Mediator Martin F. Scheinman.

11. The expenses incurred in this action are reflected on the books and records of my firm, which are available at the request of the Court. These books and records are prepared from expense vouchers, check records and other source materials and are an accurate record of the expenses as charged by the vendors. Third-party expenses are not marked up. A summary of these expenses is provided in the schedule below. Upon request, we will provide the Court with copies of documentation for each of the costs itemized above.

12. With respect to the standing of counsel in this case, included below are the biographies of the attorneys and staff that were primarily involved in this litigation, as well as their respective experience.

13. Jeffrey K. Brown is a graduate of SUNY Albany (B.A.) and Hofstra Law School (J.D.) and has been practicing as an attorney for approximately 19 years – principally engaged in the litigation of Employment Discrimination, Worker's Rights, and Wage & Hour claims. LBL has been counsel or co-counsel for plaintiffs in numerous state and federal lawsuits, based on federal and state employment, labor and wage-and-hour law, including lawsuits in the Eastern and Southern Districts of New York. Based on previously approved rates, Mr. Brown billed out at a rate of \$530.00 per hour in this matter. *See e.g., Macaluso v. Woodbury International, Inc.*, Index

No. 3216/2012 (Sup. Ct., Nassau Cty., Sept. 9, 2015) (approving partners at \$530 per hour and associates at up to \$405 per hour); Vitetta v. Siriux XM Radio Inc., Case No. 14-2926(VEC) (S.D.N.Y. Dec. 18, 2015); Grant v. Warner Music Group Corp., Case No. 13-CV-4449(PGG) (S.D.N.Y. Mar. 11, 2016); Arias v. Clear Channel Broadcasting, Inc., Case No. 14-CV-5088(SN) (S.D.N.Y. Feb. 2, 2016); Saravia v. 2799 Broadway Grocery LLC, Case No. 12-CV-7310(PAC) (S.D.N.Y. Dec. 16, 2015).

14. I am a graduate of the University of North Carolina – Chapel Hill (B.A. 2003), Indiana University – Bloomington (M.S. 2006), and Hofstra University School of Law (J.D. 2010) and have been working for LBL and litigating in Federal and State Court since 2011, including those based under the Fair Labor Standards Act and New York Labor Law. Based on previously approved rates, I billed out at a rate of \$410.00 per hour, but has provided a discounted rate of \$350 per hour.

15. Brett R. Cohen (“BC”) is an associate at LBL and is a graduate of the University of Wisconsin (B.A.) and Fordham School of Law (J.D. 2012). Mr. Cohen has worked at LBL 2013 and works primarily on class actions. Based on previously approved rates, Mr. Cohen billed out at a rate of \$365.00 per hour, but has been billed out as a discounted rate of \$325 per hour.

16. LBL paralegals and support staff bill (such as Maria Pellegrini, Brittany Cangelosi, and Chris Eagan) out at a rate of \$75.00 to \$125.00 per hour based on experience and education level.

17. I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 5th day of November, 2018.

A handwritten signature in black ink, appearing to read 'H. Tompkins', with a large circular flourish above the 'T'.

Michael A. Tompkins